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8  
9 **BEFORE THE**  
**STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **MATTHEW AARON PLUNKETT**

393 Laurie Meadow Dr., #229

13 San Mateo, California 94403

14 Field Representative License  
No. FR 38124, Br.(s) 2 and 3

Case No. 2009-13

OAH No.

**DEFAULT DECISION  
AND ORDER**

[Gov. Code, §11520]

15  
16 Respondent.

17 **FINDINGS OF FACT**

18 1. On or about December 5, 2007, Complainant Kelli Okuma, in her official  
19 capacity as the Registrar of the Structural Pest Control Board, Department of Consumer Affairs,  
20 filed Accusation No. 2009-13, against Matthew Aaron Plunkett, with the Structural Pest Control  
21 Board ("Board").

22 2. On or about January 11, 2005, the Board issued Field Representative's  
23 License Number FR 38124, in Branch 2, to Matthew Aaron Plunkett ("Respondent"). On or  
24 about June 21, 2007, the license was upgraded to include Branch 3. Respondent's license will  
25 expire on June 30, 2010, unless renewed.

26 3. On or about September 16, 2008, Praveen Singh, an employee of the  
27 Department of Justice, served by Certified and First Class Mail a copy of Accusation  
28 No. 2009-13, Request for Discovery, Statement to Respondent, Notice of Defense, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
2 with the Board, which was 15 Commerce Ct., Suite 150, Chico, California 95928. A copy of the  
3 Accusation, the related documents, and Declaration of Service are attached as **Exhibit A**, and are  
4 incorporated herein by reference.

5 4. On or about September 29, 2008, the aforementioned documents were  
6 returned by the U.S. Postal Service marked "Not Deliverable As Addressed - Unable to  
7 Forward."

8 5. On or about October 6, 2008, Praveen Singh, an employee of the  
9 Department of Justice, served by Certified Mail a copy of Accusation No. 2009-13, Request for  
10 Discovery, Statement to Respondent, Notice of Defense, and Government Code sections  
11 11507.5, 11507.6, and 11507.7 to Respondent's new address of record with the Board, which was  
12 and is 393 Laurie Meadow Drive, #229, San Mateo, California 94403.

13 6. On or about November 6, 2008, the aforementioned documents were  
14 returned by the U.S. Postal Service marked "Not Deliverable As Addressed - Unable to  
15 Forward."

16 7. Service of the Accusation was effective as a matter of law under the  
17 provisions of Government Code section 11505, subdivision (c).

18 8. Government Code section 11506 states, in pertinent part:

19 (c) The respondent shall be entitled to a hearing on the merits if the  
20 respondent files a notice of defense, and the notice shall be deemed a specific  
21 denial of all parts of the accusation not expressly admitted. Failure to file a notice  
22 of defense shall constitute a waiver of respondent's right to a hearing, but the  
23 agency in its discretion may nevertheless grant a hearing.

24 9. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at  
26 the hearing, the agency may take action based upon the respondent's express  
27 admissions or upon other evidence and affidavits may be used as evidence without  
28 any notice to respondent

26 10. Pursuant to its authority under Government Code section 11520, the Board  
27 finds Respondent is in default. The Board will take action without further hearing and, based on  
28 the evidence on file herein, finds that the allegations in Accusation No. 2009-13 are true.

1 **DETERMINATION OF ISSUES**

2 1. Based on the foregoing findings of fact, Respondent has subjected his  
3 Field Representative's License No. FR 38124, in Branches 2 and 3, to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of  
5 Service are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Structural Pest Control Board is authorized to revoke Respondent's  
8 Field Representative's License No. FR 38124, in Branches 2 and 3, based upon the following  
9 violation alleged in the Accusation:

10 a. Business and Professions Code sections 8641/8593 (failure to verify  
11 completion of continuing education). The agency has jurisdiction to adjudicate this case by  
12 default.

13 **ORDER**

14 **IT IS SO ORDERED** that Field Representative's License No. FR 38124, in  
15 Branches 2 and 3, heretofore issued to Respondent Matthew Aaron Plunkett, is revoked.

16 Pursuant to Government Code section 11520(c), Respondent may serve a written  
17 motion requesting that the Decision be vacated and stating the grounds relied on within seven (7)  
18 days after service of the Decision on Respondent. The agency in its discretion may vacate the  
19 Decision and grant a hearing on a showing of good cause, as defined in the statute.

20 This Decision shall become effective on July 12, 2009.

21 It is so ORDERED June 12, 2009

22 *Cynthia J. Kellin*  
23 **FOR THE STRUCTURAL PEST CONTROL BOARD**  
**DEPARTMENT OF CONSUMER AFFAIRS**

24 Attachment:

25 Exhibit A:

26 Accusation No.2009-13, Related Documents, and Declaration of Service  
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28

Exhibit A

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
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7 Attorneys for Complainant

**FILED**

Date 9/11/08 By Kelli Okuma

8  
9 **BEFORE THE**  
**STRUCTURAL PEST CONTROL BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**  
12

13 In the Matter of the Accusation Against:

Case No. 2009-13

14 **MATTHEW AARON PLUNKETT**  
15 15 Commerce Ct., Suite 150  
Chico, California 95928

**ACCUSATION**

16 Field Representative License  
No. FR 38124, Br.(s) 2 and 3

17 Respondent.  
18

19  
20 Kelli Okuma ("Complainant") alleges:

21 **PARTIES**

22 1. Complainant brings this Accusation solely in her official capacity as the  
23 Registrar of the Structural Pest Control Board ("Board"), Department of Consumer Affairs.

24 2. On or about January 11, 2005, the Board issued Field Representative's  
25 License Number FR 38124, in Branch 2, to Matthew Aaron Plunkett ("Respondent"). On or  
26 about June 21, 2007, the license was upgraded to include Branch 3. Respondent's license will  
27 expire on June 30, 2010, unless renewed.

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## STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 8620 provides, in pertinent part, that the Board may suspend or revoke a license when it finds that the holder, while a licensee or applicant, has committed any acts or omissions constituting cause for disciplinary action or in lieu of a suspension may assess a civil penalty.

4. Code section 8641 states:

Failure to comply with the provisions of this chapter, or any rule or regulation adopted by the board, or the furnishing of a report of inspection without the making of a bona fide inspection of the premises for wood-destroying pests or organisms, or furnishing a notice of work completed prior to the completion of the work specified in the contract, is a ground for disciplinary action.

5. Code section 8593 states, in pertinent part:

The board shall require as a condition to the renewal of each operator's and field representative's license that the holder submit proof satisfactory to the board that he or she has informed himself or herself of developments in the field of pest control either by completion of courses of continuing education in pest control approved by the board or equivalent activity approved by the board. In lieu of submitting that proof, the licenseholder, if he or she so desires, may take and successfully complete an examination given by the board, designed to test his or her knowledge of developments in the field of pest control since the issuance of his or her license.

## REGULATORY PROVISIONS

6. California Code of Regulations, title 16, section 1950, states, in pertinent part:

(a) Except as provided in section 1951, every licensee is required, as a condition to renewal of a license, to certify that he or she has completed the continuing education requirements set forth in this article. A licensee who cannot verify completion of continuing education by producing certificates of activity completion, whenever requested to do so by the Board, may be subject to disciplinary action under section 8641 of the code.

(b) Each licensee is required to gain a certain number of continuing education hours during the three year renewal period. The number of hours required depends on the number of branches of pest control in which licenses are held. The subject matter covered by each activity shall be designated as "technical" or "general" by the Board when the activity is approved. Hour values shall be assigned by the Board to each approved educational activity, in accordance with the provisions of section 1950.5.

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1 (d) Field representatives licensed in one branch of pest control shall have  
2 completed 16 continuing education hours, field representatives licensed in two  
3 branches of pest control shall have completed 20 continuing education hours, field  
4 representatives licensed in three branches of pest control shall have completed 24  
5 continuing education hours during each three year renewal period. In each case, a  
6 minimum of four continuing education hours in a technical subject directly  
7 related to each branch of pest control held by the licensee must be gained for each  
8 branch of pest control licensed and a minimum of eight hours must be gained  
9 from Board approved courses on the Structural Pest Control Act, the Rules and  
10 Regulations, or structural pest control related agencies' rules and regulations.

### 11 COST RECOVERY

12 7. Code section 125.3 states, in pertinent part, that a Board may request the  
13 administrative law judge to direct a licensee found to have committed a violation or violations  
14 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

### 16 BACKGROUND INFORMATION

17 8. In or about June 2007, Respondent submitted a license renewal application  
18 to the Board. On June 22, 2007, Respondent certified under penalty of perjury on the application  
19 form that he successfully completed 20 hours of continuing education during his last renewal  
20 period.

21 9. On November 27, 2007, January 15, 2008, and February 5, 2008, the  
22 Board sent Respondent written requests for copies of his certificates of course completion that  
23 verify his continuing education hours. Respondent was advised on each occasion that if he failed  
24 to comply with the request, his field representative's license would be subject to disciplinary  
25 action.

### 26 FIRST CAUSE FOR DISCIPLINE

#### 27 (Failure to Verify Completion of Continuing Education)

28 10. Respondent is subject to discipline under Code section 8641, in that he  
failed to comply with California Code of Regulation, title 16, section 1950, by failing to verify  
that he had completed courses of continuing education by producing continuing education  
certificates for the last renewal period, as requested by the Board on November 27, 2007,  
January 15, 2008, and February 5, 2008.

1 OTHER MATTERS

2 11. Code section 8620 provides, in pertinent part, that a respondent may  
3 request that a civil penalty of not more than \$5,000 be assessed in lieu of an actual suspension of  
4 1 to 19 days, or not more than \$10,000 for an actual suspension of 20 to 45 days. Such request  
5 must be made at the time of the hearing and must be noted in the proposed decision. The  
6 proposed decision shall not provide that a civil penalty shall be imposed in lieu of a suspension.

7 12. Pursuant to Code section 8654, if discipline is imposed on Field  
8 Representative's License Number FR 38124, issued to Matthew Aaron Plunkett, then Matthew  
9 Aaron Plunkett shall be prohibited from serving as an officer, director, associate, partner,  
10 qualifying manager, or responsible managing employee for any registered company during the  
11 time the discipline is imposed, and any registered company which employs, elects, or associates  
12 Matthew Aaron Plunkett shall be subject to disciplinary action.

13 PRAYER

14 **WHEREFORE**, Complainant requests that a hearing be held on the matters  
15 herein alleged, and that following the hearing, the Structural Pest Control Board issue a decision:

16 1. Revoking or suspending Field Representative's License Number  
17 FR 38124, issued to Matthew Aaron Plunkett;

18 2. Prohibiting Matthew Aaron Plunkett from serving as an officer, director,  
19 associate, partner, qualifying manager or responsible managing employee of any registered  
20 company during the period that discipline is imposed on Field Representative's License Number  
21 FR 38124, issued to Matthew Aaron Plunkett;

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1                   3.     Ordering Matthew Aaron Plunkett to pay the Structural Pest Control Board  
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
3 Professions Code section 125.3; and,

4                   4.     Taking such other and further action as deemed necessary and proper.

5 DATED: 9/11/08

6   
KELLI OKUMA  
7 Registrar  
8 Structural Pest Control Board  
9 Department of Consumer Affairs  
10 State of California

Complainant

11 SA2008303789  
12 Accusation (kdg) 8/13/08  
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